

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

MAR 2 2008

OFFICE OF
MANAGING DIRECTOR

B.L. Phillips
WAGL AM 1560
Post Office Box 28
Lancaster, S.C. 29721

Re: Request to Waive Late Payment Penalty
For FY 2005 Regulatory Fee for WAGL
Fee Control No. RROG-06-00006117

Dear Mr. Phillips:

This is in response to your request for waiver of a late payment penalty associated with the fiscal year (FY) 2005 regulatory fee for WAGL AM 1560 (WAGL).¹ Our records reflect that on October 3, 2005, subsequent to the September 7, 2005 payment deadline,² we received a \$1,125.00 payment for WAGL's FY 2005 regulatory fee. As explained below, your request for waiver of the 25 per cent penalty is denied.

In support of your request, you state that you did not receive a notice by mail from the Commission this year and you did not remember that your fee was due until September 28, 2005.³ You state further that FCC staff suggested that a notice may have been mailed to the WAGL (AM) physical address rather than the post office box.⁴ You also suggest that the reason you did not remember that your regulatory fee was due was because of your concern about Hurricane Ophelia.⁵

In FY 2003, the Commission determined that it would use its website rather than surface mail to disseminate regulatory fee public notices to inform its regulatees when regulatory fees were due.⁶ In FY 2004, the Commission reiterated that it would continue to provide all the necessary regulatory fee payment procedure information on its website and it would no longer disseminate public notices through surface mail.⁷ Similarly, in the FY 2005 Report and Order, the Commission explained that it would continue to generate public notices and fact sheets that notify regulatees of the fee payment due date and

¹ Letter from B.L. Phillips, President, WAGL AM 1560, to the Office of the Managing Director, FCC dated September 28, 2005 (Phillips Letter).

² "Payment Methods and Procedures for Fiscal Year 2005 Regulatory Fees," Public Notice, 20 FCC Rcd 12567 (2005) (FY 2005 Reg Fee Public Notice)

³ Phillips Letter at 1.

⁴ *Id.*

⁵ *Id.*

⁶ *Assessment and Collection of Regulatory Fees for Fiscal Year 2003*, Report and Order, 18 FCC Rcd 15985, ¶¶ 17-19 (2003).

⁷ *Assessment and Collection of Regulatory Fees for Fiscal Year 2004*, Report and Order, 19 FCC Rcd 11662, ¶¶ 33-34 (2004).

would make these items and other relevant fee payment information available on its website.⁸ The Commission accordingly informed its licensees of the FY 2005 due dates, amounts of the fees, and payment methods on its web site, www.fcc.gov/fees/regfees.html.⁹

The Commission's rules are clear that licensees such as WAGL are required to pay to the Commission an annual regulatory fee in a timely manner.¹⁰ It is the obligation of the licensees to ensure the Commission receives the fee payment no later than the final date on which regulatory fees are due for the year.¹¹ As a Commission licensee, WAGL is charged with the responsibility to familiarize itself with the Commission's rules and requirements. Therefore, WAGL's lack of familiarity with the Commission's rules governing and public notices concerning regulatory fee payments does not mitigate or excuse WAGL's failure to pay its FY 2005 regulatory fee in a timely manner. The Commission has repeatedly held that "[l]icensees are expected to know and comply with the Commission's rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances."¹² Furthermore, the Communications Act of 1934, as amended, requires the Commission to assess a late charge penalty of 25 percent on any regulatory fee not paid in a timely manner.¹³

WAGL's assertion that it did not receive notice in the mail does not excuse or cancel its obligation to timely pay its FY 2005 regulatory fee. WAGL could have either used the Commission's website or contacted the Commission by telephone, as directed in the *FY 2005 Report and Order*, to obtain the information needed to pay its regulatory fee by the September 7, 2005 due date.¹⁴

⁸ *Assessment and Collection of Regulatory Fees for Fiscal Year 2005*, Report and Order, 20 FCC Rcd 12259, ¶ 27 (2005) (*FY 2005 Report and Order*).

⁹ See FY 2005 Reg Fee Public Notice; "Fee Filer Now Available for 2005 Regulatory Fees," Public Notice, 20 FCC Rcd 23,325 (stating that licensees must make their FY2005 fee payments by 11:59 pm, September 7, 2005) (2005).

¹⁰ See FY 2005 Report and Order at ¶ 45-49; 47 U.S.C. §159; 47 C.F.R. §1.1157.

¹¹ *Id.*

¹² *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), citing *Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970).

¹³ 47 U.S.C. §159(c).

¹⁴ FY 2005 Report and Order at ¶ 27. In light of WAGL's claim that it did not receive an assessment postcard, it may wish to change its registered mailing address from its street address to its post office box. To change WAGL's mailing address, you may either file an FCC Form 5027 which can be downloaded from our website, or you may file electronically by using the CDBS electronic filing system.

For the reasons discussed above, we deny your request to waive the penalty for late payment of the FY 2005 regulatory fee.

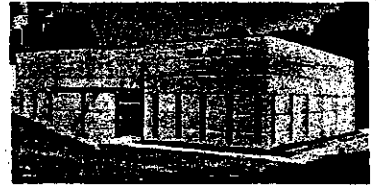
Payment of the penalty of \$281.25 is now due. It should be submitted, together with a FCC Form 159, within 30 days of the date of this letter. If you have any questions concerning this matter, please contact the Revenue and Receivables Operations Group at (202) 418-1995.

Sincerely,



 Mark A. Reger
Chief Financial Officer

WAGL 50,000 AM 1560 WATTS



~~P. O. Box 28~~ Lancaster, S. C. 29721
101 S. Woodland Dr. Lancaster, S. C. 29720

LANCASTER ROCK HILL
CHARLOTTE GASTONIA
COLUMBIA MONROE

September 28, 2005

Re: Regulatory Fee/2005

Waivers

Federal Communications Commission
Office of Managing Director
445 12th St. SW
Room 1-A625
Washington, DC 20554
Regulatory Fee Waiver Agent

*2 day
Assign to Regina
30 day letter*

RR06-06-00006117
6117

Gentlemen:

I respectfully request a waiver of the 25% late fee on the 2005 Regulatory fee. We did not receive a notice by mail from the FCC this year and it slipped my mind until today (Sept. 28, 2005). I spoke by phone this morning to Mr. Roland Heljavian in the FCC Regulatory Fees Section. He suggested that maybe the reason that the notice did not reach me is that it was mailed to our physical address of 101 S. Woodland Dr. instead of to the Post Office box #28. We have no mail receptacle at the 101 S. Woodland Dr. address and receive all mail at P. O. Box 28 - Lancaster, SC 29721. The local post office is quite stubborn about returning mail that is not addressed to the P. O. Box instead of simply placing it in the P. O. Box. I guess the reason I did not think of it sooner is the concern for Hurricane Ophelia that threatened the Carolina Coast.

I have this day mailed the \$1125.00 fee and form 159 to:

Federal Communications Commission
Regulatory Fees
P. O. Box 358835
Pittsburg, PA 15251-5835

Sincerely,

B. L. Phillips
B. L. Phillips
President

Phone: (803) 283-8431
Fax: (803) 286-4702

~~P. O. Box 28~~ Lancaster, S. C. 29721
101 S. Woodland Dr. Lancaster, S. C. 29720